REMARKS

This application has been carefully reviewed in light of the Office Action dated July 20, 2007. Claims 1 to 7 are in the application, with Claim 1 being independent. Claims 1 to 4 have been amended herein. Reconsideration and further examination are respectfully requested.

Claims 1 to 7 were rejected under 35 U.S.C. § 102(e) or, in the alternative, under 35 U.S.C. § 103(a) over U.S. Publication No. 2003/0175589 (Kaminaka). This rejection is respectfully traversed.

According to a feature of the invention as recited by Claim 1, the crystallite size of the silicon phase is not less than 2 nm but no more than 500 nm, as determined by the Scherrer Equation $Lc = 0.94\lambda/(\beta\cos\theta)$, where Lc is the crystallite size, λ is the wavelength of the X-ray beam, β is the full width at half maximum of peak and θ is the Bragg angle of diffracted rays.

In this regard, Applicants respectfully submit that the Scherrer Equation is common knowledge to one skilled in the art. For example, the Scherrer Equation is described in the documents cited in the accompanying Information Disclosure Statement.

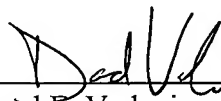Kaminaka is not seen to disclose or suggest at least the above-discussed feature.

As Applicants understand it, Kaminaka refers to the diameter of Si phase grains, but has no description of a crystallite size of a silicon phase. The diameter of the Si phase grains is measured by using a scanning electron microscope (SEM) (see para [0037]), not by X-ray diffraction, and hence without applying the Scherrer equation.

The dependent claims are also submitted to be patentable because they set forth additional aspects of the present invention and are dependent from the independent claim discussed above. Therefore, separate and individual consideration of each dependent claim is respectfully requested.

The application is believed to be in condition for allowance, and a Notice of Allowance is respectfully requested.

Applicants' undersigned attorney may be reached in our Costa Mesa, California office by telephone at (714) 540-8700. All correspondence should be directed to our address given below.

Respectfully submitted,

Damond E. Vadnais
Attorney for Applicants
Registration No. 52,310

FITZPATRICK, CELLA, HARPER & SCINTO
30 Rockefeller Plaza
New York, New York 10112-3800
Facsimile: (212) 218-2200

FCHS_WS 1697989v1

- 5 -